IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17992 of 2004

Between:

Pathan Ahmed Khan, S/o Dastagiri Saheb,
R/o Yeruru Village Chillakur Mandal, Nellore District

..... PETITIONER

AND

1 Mandal Revenue Officer, Chillakuru Mandal, Nellore District
2 Revenue Divisional Officer, Chillakur Mandal, Nellore District
3 Pathan Samdani S/o Hamdeem,
R/o Syamasundara Puram Kota Mandal, Nellore District
4 Pathan Hussain Bee W/o Hamdeem,
R/o Syamasundara Puram Kota Mandal, Nellore District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or order more especially one in the nature of Writ of Mandamus declaring the action of the respondent NO.2 in not passing any orders on the appeal and the stay petition filed by the petitioner in appeal No. B1/3520/041/2004 as illegal, arbitrary, capricious and consequentially suspend the operation of proceedings in Rc. No. B/123/2004 dated 8-9-2004 passed by the 1st respondent and consequentially direct the respondent No.2 to 1st respondent and consequentially direct the respondent NO.2 to dispose of the appeal in B1/3520/041/2004.

Counsel for the Petitioner:MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court at the stage of admission made the following :

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ORDER:

Against the order, dated 08-09-2004, passed by the 1st respondent-Mandal Revenue Officer, Chillakuru Mandal, Nellore district, for violation of Section 3(1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfer Act) of 1977, the petitioner preferred an appeal before the 2nd respondent-Revenue Divisions Officer, Gudur, Nellore District, on 23-09-2004, along with an application for stay. Since no order has been passed on the said application, the petitioner moved this Court by way of filing the present writ petition.

Heard the learned counsel for the petitioner and learned Government Pleader for Revenue.

It is settled preposition of law that when the statutory appeal is pending before the appellate authority against the impugned order, it is obligatory on the part of the appellate authority to safeguard the interests of the parties, and the petitioner cannot maintain parallel proceedings. Hence, the writ petition under Article 226 of the Constitution of India cannot be entertained.

In view of the same, the 2nd respondent-Revenue Divisional Officer is directed to dispose of the stay application, if possible, the appeal itself, expeditiously. Till the disposal of the stay application by the appellate authority, all further proceedings, pursuant to the impugned order, are stayed.

Accordingly, the writ petition is disposed of. No costs.

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A.GOPAL REDDY,J

Dated:05-10-2004

GJ

To

1 Mandal Revenue Officer, Chillakuru Mandal, Nellore District
2 Revenue Divisional Officer, Chillakur Mandal, Nellore District
3 Two C.Cs. to the Government Pleader for Revenue, High Court of A.P., Hyderabad.(OUT)

4 Two C.D. copies.